

ORDINANCE NO. 271

**AN ORDINANCE OF THE BOROUGH OF HULMEVILLE, BUCKS COUNTY, PENNSYLVANIA AMENDING THE CODE OF THE BOROUGH OF HULMEVILLE TO REPEAL ORDINANCE NO. 237, AND TO AMEND CHAPTER 24 TO ADD PART 5, SECTION 25-501, et seq, TO LEVY AN EARNED INCOME TAX OF ONE (1%) PERCENT, FOR GENERAL REVENUE PURPOSES, PURSUANT TO THE AUTHORITY OF THE LOCAL TAX ENABLING ACT; TO INCLUDE DEFINITIONS; TO PROVIDE FOR DECLARATION AND PAYMENT OF THE TAX; TO PROVIDE FOR COLLECTION OF THE TAX AND WITHHOLDING BY EMPLOYERS AT THE SOURCE; TO ESTABLISH THE POWERS AND DUTIES OF THE TAX COLLECTOR; TO ESTABLISH THE AMOUNT OF THE TAX RATE; TO ESTABLISH THE EFFECTIVE DATE OF THE IMPOSITION AND LEVY OF THE TAX; TO PROVIDE FOR SUITS FOR COLLECTION OF UNPAID TAXES, INCLUDING INTEREST AND PENALTIES; AND TO REPEAL ALL INCONSISTENT ORDINANCES OR SECTIONS OF THE CODE.**

**NOW THEREFORE, BE IT ENACTED AND ORDAINED** by the Council of the Borough of Hulmeville, County of Bucks, Commonwealth of Pennsylvania, that the Borough's Code of Ordinances shall be amended as follows:

**I. CHAPTER 24, SPECIAL TAXATION, PART 5, SECTIONS 501, ET SEQ., OF THE CODE OF ORDINANCES OF THE BOROUGH OF HULMEVILLE, FOR GENERAL REVENUE PURPOSES, IS HEREBY ENACTED AND ORDAINED UNDER THE AUTHORITY OF THE LOCAL TAX ENABLING ACT, THE BOROUGH CODE AND OTHER APPLICABLE LAWS AS FOLLOWS:**

**PART 5 EARNED INCOME TAX  
Section 24-501 Definitions.**

A. The definitions set forth in Section 501, as amended, of the Local Tax Enabling Act, 53 P.S. 6924.501, are adopted and included by reference as herein fully set forth. Without limiting the generality of the foregoing, the following words and phrases, when used in this Chapter 24, Part 5, shall have the meanings ascribed to them in this section, except where the context clearly indicates or requires a different meaning:

**ASSOCIATION**

A partnership, limited partnership, or any other form of unincorporated enterprise owned by two or more persons.

**BOROUGH**

Borough of Hulmeville, Bucks County, Pennsylvania.



## **BUSINESS**

An enterprise, activity, profession or any other undertaking of an unincorporated nature conducted for profit or ordinarily conducted for profit, whether by a person, partnership, association or any other entity.

## **BUSINESS ENTITY**

A sole proprietorship, corporation, joint-stock association or company, partnership, limited partnership, limited liability company, limited liability partnership, association, business trust, syndicate or other commercial or professional activity organized under the laws of this Commonwealth or any other jurisdiction.

## **COLLECTOR**

The tax officer for the administration and collection of the income taxes of the Borough appointed and acting pursuant to the various provisions of the Local Tax Enabling Act and this Chapter.

## **CORPORATION**

A corporation or joint-stock association organized under the laws of the United States, the Commonwealth of Pennsylvania or any other state, territory, foreign country or dependency.

## **CURRENT YEAR**

The calendar year for which the tax is levied.

## **DEPARTMENT**

The Department of Community and Economic Development of the Commonwealth of Pennsylvania.

## **DOMICILE**

The place where a person lives and has a permanent home and to which the person has the intention of returning whenever absent. Actual residence is not necessarily domicile, for domicile is the fixed place of abode which, in the intention of the taxpayer, is permanent rather than transitory. Domicile is the voluntarily fixed place of habitation of a person, not for a mere special or limited purpose, but with the present intention of making a permanent home, until some event occurs to induce the person to adopt some other permanent home. In the case of a business, domicile is that place considered as the center of business affairs and the place where its functions are discharged.

## **EARNED INCOME**

The compensation as required to be reported to or as determined by the Department of Revenue under Section 303 of the Act of March 4, 1971 (P.L. 6, No.2), known as the "Tax Reform Code of 1971," as amended, and rules and regulations promulgated under this section. Employee business expenses as reported to or determined by the Department of Revenue under Article III of the Tax Reform Code of 1971 shall constitute allowable deductions in determining earned income. The term does not include offsets for business losses. The amount of any housing allowance provided to a member of the clergy shall not be taxable as



earned income. Without limiting the generality of the foregoing, and unless specifically superseded by statute or regulation of the commonwealth, earned income shall include salaries, wages, commissions, bonuses, incentive payments, fees and tips and other compensation that may accrue or be received by an individual for services rendered, whether directly or through an agent and whether in cash or in property, but shall not include periodic payments for sick or disability benefits and those commonly recognized as old-age benefits, retirement pay or pensions paid to persons retired from service after reaching a specific age or after a stated period of employment, nor public assistance or unemployment compensation payments, nor any wages or compensation paid by the United States to any person for active service in the Army, Navy, Air Force, Marines or Coast Guard of the United States or the Commonwealth of Pennsylvania or any other state for such service.

#### **EMPLOYER**

A person, business entity or other entity employing one or more persons for a salary, wage, commission or other compensation. The term includes the commonwealth, a political subdivision, and an instrumentality or public authority of either. For purposes of penalties under this article, the term includes a corporate officer.

#### **LOCAL TAX ENABLING ACT**

Act of December 31, 1965, P.L. 1257, 53 P.S. §6924.101, et seq., and any amendments thereto.

#### **MUNICIPALITY**

The Borough of Hulmeville, Bucks County, Pennsylvania.

#### **NET PROFITS**

The net income from the operation of a business other than a corporation, as required to be reported to or as determined by the Department of Revenue under Section 303 of the Act of March 4, 1971 (P.L. 6, No.2), known as the "Tax Reform Code of 1971", as amended, and rules and regulations promulgated under that section. Without limiting the generality of the foregoing, and unless specifically superseded by Statute or regulation of the Commonwealth, net profits shall include the net income from the operation of a business, profession or enterprise, except corporations, after provisions for all costs and expenses incurred in the conduct thereof, either paid or accrued in accordance with the accounting system used in such business, profession or enterprise, but without deduction of taxes based on income. Without limiting the generality of the foregoing, and unless specifically superseded by statute or regulation of the commonwealth, net profits shall not include:

- (1) Income, which:
  - (a) Is not paid for services provided; and
  - (b) Is in the nature of earnings from an investment.
- (2) Income, which represents:
  - (a) Any gain on the sale of farm machinery;

(b) Any gain on the sale of livestock held 12 months or more for draft, breeding or dairy purposes; or

(c) Any gain on the sale of other capital assets of a farm.

**NONRESIDENT**

A person or business domiciled outside of the Borough of Hulmeville.

**PERSON**

A natural person, partnership, corporation, fiduciary or association. Whenever used in any section prescribing and imposing a penalty, the term "person" as applied to associations shall mean the partners or members thereof and, as applied to corporations, the officers thereof.

**PRECEDING YEAR**

The calendar year before the current year.

**PRIVATE AGENCY**

A business entity or person appointed as the Tax Officer.

**RESIDENT**

A person or business domiciled in the Borough of Hulmeville.

**SUCCEEDING YEAR**

The calendar year following the current year.

**TAX OFFICER**

The political subdivision, public employee, tax bureau, county or private agency which administers and collects income taxes for the Borough pursuant to and in accordance with the Local Tax Enabling Act and this Chapter.

**TAXABLE INCOME**

Earned income and net profits.

**TAXING AUTHORITY**

Borough of Hulmeville, Bucks County, Pennsylvania.

**TAX PAYER**

A person, whether an individual, partnership, association, business, or any other entity, required hereunder to file a return of earnings or net profits or to pay a tax thereon.

**B. WORD USAGE.** The singular shall include the plural, and the masculine shall include the feminine and neuter.



## **Section 24-502 Imposition of Tax.**

**A.** A tax for general revenue purposes of one (1%) percent is hereby imposed as follows:

1. General purpose resident tax. The Taxing Authority hereby imposes a tax for general revenue purposes at the rate of one (1%) percent on earned income and net profits of residents of the Borough of Hulmeville.

2. General purpose non-resident tax. The Taxing Authority hereby imposes a tax for general revenue purposes at the rate of one (1%) percent on earned income and net profits, from any work, business, profession, or activity, of any kind or nature engaged in within the boundaries of the Borough of Hulmeville, derived by an individual who is not a resident of the Borough of Hulmeville.

**B.** Ongoing Tax. The tax shall continue at the above rates during the current tax year and each tax year thereafter, without annual re-enactment, until this Chapter is repealed or the rate of tax is changed.

**C.** Local Tax Enabling Act applicable. The tax is imposed under authority of the Local Tax Enabling Act, as amended, and all provisions thereof that relate to a tax on earned income or net profits are incorporated into this Chapter. Any future amendments to the Local Tax Enabling Act that are required to be applied to a tax on earned income or net profits will automatically become part of this Chapter upon the effective date of such amendment, without the need for formal amendment of this Chapter, to the maximum extent allowed by 1 Pa.S.C.A. §1937.

**D.** Applicable laws, regulations, policies, and procedures. The tax shall be collected and administered in accordance with: (1) all applicable laws and regulations; and (2) policies and procedures adopted by the Bucks County Tax Collection Committee or by the Collector. This Section includes any regulations, policies and procedures adopted in the future to the maximum extent allowed by 1 Pa.C.S.A. §1937.

## **Section 24-503 Exemptions.**

**A.** Any individual earning a total income of less than Twelve Thousand (\$12,000.00) Dollars shall be exempt from the Earned Income Tax.

## **Section 24-504 Declaration and Payment of Tax.**

1. Individual Tax Returns and Payments. Every resident receiving earned income or earning net profits in any tax year shall file tax returns on appropriate forms prescribed by the Collector and pay tax in strict compliance with the provisions of the Local Tax Enabling Act, as amended, and this Chapter, on or prior to the dates set forth in the Local Tax Enabling Act, as amended.



2. Employer withholding, remittance and tax returns.

(a) Every employer shall register with the Collector the employer's name, address, and such other information as Collector shall require.

(b) Every employer shall file tax returns on appropriate forms prescribed by the Collector, and remit tax in strict compliance with the provisions of the Local Tax Enabling Act, as amended, and this Chapter, on or prior to the dates set forth in the Local Tax Enabling Act, as amended.

**Section 24-505 Tax Collector.**

A. The tax shall be collected from residents and employers by the Collector.

**Section 25-506 Powers and Duties of Collector.**

A. It shall be the duty of the Collector to collect and receive the taxes, fines and penalties imposed by this article. It shall also be its duty to keep a record setting forth the amount received by it from each person paying the tax and the date of such receipt.

B. The Collector is hereby charged with the administration and enforcement of the provisions of this Chapter and is hereby empowered to prescribe, adopt, promulgate and enforce rules and regulations relating to any matter pertaining to the administration and enforcement of this Chapter, including provisions for the reexamination and correction of declaration and returns and of payments alleged or found to be incorrect or as to which an overpayment is claimed or found to have occurred, and to prescribe forms necessary for the administration of this Chapter.

C. The Collector and agents designated by it are hereby authorized to examine the books, papers and records of any employer or supposed employer or of any taxpayer or supposed taxpayer in order to verify the accuracy of any declaration or return or, if no declaration or return was filed, to ascertain the tax due. Every employer or supposed employer and every taxpayer or supposed taxpayer is hereby directed and required to give to the Collector or to any agent designated by him the means, facilities and opportunity for such examinations and investigations as are hereby authorized.

D. Any information gained by the Collector, its agents or by any other official or agent of the Borough as a result of any declarations, returns, investigations, hearings or verifications required or authorized by this article shall be confidential except in accordance with a proper judicial order or as otherwise provided by law.

E. Any person aggrieved by any action of the Collector shall have the right of appeal as provided by law.

**Section 24-506 Suit for Collection of Tax.**

A. The Collector may sue for the recovery of taxes due and unpaid under this Chapter.



B. Any suit brought to recover the tax imposed by this article shall be begun within three years after such tax is due or within three years after a declaration or return has been filed, whichever date is later; provided, however, that this limitation shall not prevent the institution of a suit for the collection of any tax due or determined to be due in the following cases:

(1) Where no declaration or return was filed by any person, although a declaration or return was required to be filed by him under the provisions of this Chapter, there shall be no limitation.

(2) Where an examination of the declaration or return is the possession of the Collector or any other evidence relating to such declaration or return reveals a fraudulent evasion of taxes, there shall be no limitation.

(3) Where any person has deducted taxes under the provisions of this article and has failed to pay the amounts so deducted to the Collector, or where any person has willfully failed or omitted to make the deductions required by this article, there shall be no limitation.

(4) In the case of substantial understatement of tax liability of 25% or more and no fraud, suit shall be instituted within six years.

(5) The Collector may file suit for the recovery of an erroneous refund, provided that such civil action is filed within two years of the date such refund is made. However, if it appears that any such refund was induced by fraud or misrepresentation of material fact, then such action may be brought within five years of the date of refund.

(6) The Borough and Collector are also empowered to employ all other means of collection authorized by law.

#### **Section 24-507 Interest, Penalties, Costs and Fines.**

A. Residents, Businesses, and employers are subject to interest, penalties, costs, and fines in accordance with the Local Tax Enabling Act, as amended, including costs imposed by the Collector in accordance with authorization by the Bucks County Tax Collection Committee.

B. In the event suit is filed for the collection of any tax under this Chapter the person liable for such tax shall, in addition, be liable for the costs of collection and the interest and penalties herein imposed, together with attorney's fees of the Collector or Borough when authorized by law.

C. Any person who fails, neglects or refuses to make any declaration or return required by this article; any employer who fails, neglects or refuses to register or to pay the tax deducted from his employees; any person who refuses to permit the Collector or any agent designated by it to examine his books, records and papers; and any person who makes any incomplete, false or fraudulent return or attempts to do anything whatsoever to avoid the full disclosure of the amount of his net profits or earnings to avoid the payment of the whole or any

part of the tax imposed by this article shall, upon conviction thereof before any Magisterial District Judge or court of competent jurisdiction, be sentenced to pay a fine of not more than \$500 for each offense and costs and, in default of payment of said fine and costs, to be imprisoned in the Bucks County Jail for a period not exceeding 30 days.

**D.** Any person who divulges any information which is confidential under the provisions of Section 24-505D of this Chapter shall, upon conviction thereof before any Magisterial District Judge or court of competent jurisdiction, be sentenced to pay a fine not more than \$500 for each offense and costs and, in default of payment of said fine and costs, to be imprisoned in the Bucks County Jail for a period not exceeding 30 days.

**E.** The penalties imposed under this section shall be in addition to any other penalty imposed by any other section of this article.

**F.** The failure of any person to receive or procure the forms required for making the declaration or returns required by this article shall not excuse him from making such declaration or return.

## **II. REPEALED PROVISIONS.**

**A.** Hulmeville Borough Ordinance Number 237, Ordained and Enacted on September 11, 2006, is hereby repealed in its entirety.

**B.** All Ordinances or parts of Ordinances that are inconsistent with this Ordinance are hereby repealed.

## **III. SEVERABILITY, INCONSISTENCIES, EFFECTIVE DATE.**

**A.** The provisions of this Ordinance are severable. If any section, clause, sentence, part or provision of this Ordinance shall be determined to be illegal or invalid by any court of competent jurisdiction, such decision shall not impair or affect the remaining terms, sections and clauses of this Ordinance. If there are any inconsistencies between the provisions of this Ordinance and any other section of the Borough Code or Ordinances then in effect, the terms and provisions of this Ordinance shall control.

**B.** This Ordinance shall become effective January 1, 2018.



ORDAINED AND ENACTED by the Borough Council of the Borough of Hulmeville  
this 28<sup>th</sup> day of November, 2017.

HULMEVILLE BOROUGH COUNCIL

BY: Thomas Wheeler  
Thomas Wheeler, Borough Council President

ATTEST:

Dorothy Omietanski  
Dorothy Omietanski,  
Borough Council Secretary

EXAMINED AND APPROVED this 28 day of November, 2017.

David Harris  
David Harris, Mayor Hulmeville Borough